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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/518,495

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Jay S. Walker

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EXAMINER

RIMELL, SAMUEL G

ART UNIT

PAPER NUMBER

2175

DATE MAILED: 02/23/2004

21

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary

Application No.

09/518,495

Applicant(s)

WALKER ET AL.

Examiner

Sam Rimell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 144-289 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 144-289 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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Preliminary Note: The Information Disclosure Statement of December 8, 2003 has been received and fully considered.

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 236-237 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility.

Claims 236-237: Claims 236-237 set forth an airline ticket as a binding commitment in which the ticket does not specify the airline carrier, departure time or flight number. While such a device could be converted into an airline ticket with the processing of additional data, it does meet either the conventional or applicant supplied definition of an airline ticket.

Applicant defines an airline ticket on page 1, second paragraph of the specification as a device which specifies an airline and an itinerary. The conventional definition of an airline ticket is a contract between a passenger and an airline to provide a specified flight service. Without the specification of an airline, departure time or flight number, the claimed device would not function as an airline ticket, regardless of which definition is considered.

The claimed device would also not be a binding commitment. The lack of specification of an airline means that the airline is not legally bound to the device. In addition, since the claims do not state that a passenger is committed to the device, a passenger may not be bound to the device as well. With no parties being legally bound to the device, the device is not operable as a binding commitment.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 144-235 and 238-289 are rejected under 35 U.S.C. 102(e) as being anticipated by Tagawa (U.S. Patent 5,732,398).

Claim 144: Tagawa discloses a kiosk (FIG. 1) in which a passenger can book airline reservations and obtain vouchers good for airline travel. The kiosk is a processor and includes memory system (74). The kiosk may also communicate with external memory systems (Reservation Centers, as illustrated in FIG. 2A).

FIG. 8A outlines a process in which the kiosk receives a booking from a user (block 456). The user may specify the destination information and departure information (lines for entering destination and origin). The user can skip the entry of a specified airline (blocks 452 and 454), so the airline information may not necessarily be present in the booking information. The system only provides information on the lowest fares available to the user (col. 15, lines 57-58) so the resulting fare will be discounted relative to other available fares.

The system examines flights by querying flight databases to determine which flight best matches the booking (col. 15, lines 44-45) and selects at least one flight matching the booking information. The user is then provided a confirmation number.

As outlined in col. 16, lines 12-23, the user can subsequently enter the confirmation number into the kiosk and obtain a notice in the form of a travel voucher. FIG. 15A illustrates such a notice. The notice identifies the airline carrier.

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Claim 145: Col. 15, lines 33 states that the particular information described as being in input by the user is “preferable”. This means that the preferred departure time indicated by the user does not necessarily have to be entered, and is optional rather than mandatory. It is also observed that the user does not specify the actual departure time of a scheduled flight, since the user would not know this information until the system specified available flights.

Claim 146: The booking (block 456) may specify a departure time range, such as “morning, “mid-day” or “evening” (col. 15, lines 35-36).

Claim 147: The Notice identifies the flight number (FIG. 15A).

Claim 148: The notice identifies the departure time (FIG. 15A).

Claim 149: The notice is in the form of a voucher (FIG. 15A).

Claim 150: The kiosk includes a processor which is configured to issue a confirmation number. Column 15, line 66 describes this as electronic ticketing.

Claim 151: See remarks for claim 144.

Claim 152: See remarks for claim 145.

Claim 153: See remarks for claim 146.

Claim 154: See remarks for claim 147.

Claim 155: See remarks for claim 148.

Claim 156: See remarks for claim 149.

Claim 157: See remarks for claim 150.

Claim 158: See remarks for claims 144. Also note that col. 15, lines 35-36 identify time ranges, such as “morning”, “afternoon” and “evening”.

Claim 159: See remarks for claim 147.

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Claim 160: See remarks for claim 148.

Claim 161: See remarks for claim 149.

Claim 162: See remarks for claim 150.

Claim 163: See remarks for claim 144.

Claim 164: See remarks for claim 147.

Claim 165: See remarks for claim 148.

Claim 166: See remarks for claim 149.

Claim 167: See remarks for claim 150.

Claim 168: See remarks for claim 158.

Claim 169: See remarks for claim 145.

Claim 170: See remarks for claim 147.

Claim 171: See remarks for claim 148.

Claim 172: See remarks for claim 149.

Claim 173: See remarks for claim 150.

Claim 174: See remarks for claim 144.

Claim 175: See remarks for claim 145.

Claim 176: See remarks for claim 146.

Claim 177: See remarks for claim 147.

Claim 178: See remarks for claim 148.

Claim 179: See remarks for claim 149.

Claim 180: See remarks for claim 150.

Claim 181: See remarks for claim 144.

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Claim 182: See remarks for claim 145.

Claim 183: See remarks for claim 146.

Claim 184: See remarks for claim 147.

Claim 185: See remarks for claim 148.

Claim 186: See remarks for claim 149.

Claim 187: See remarks for claim 150.

Claim 188: See remarks for claim 158.

Claim 189: See remarks for claim 147.

Claim 190: See remarks for claim 148.

Claim 191: See remarks for claim 149.

Claim 192: See remarks for claim 150.

Claim 193: See remarks for claim 158.

Claim 194: See remarks for claim 147.

Claim 195: See remarks for claim 148.

Claim 196: See remarks for claim 149.

Claim 197: See remarks for claim 150.

Claim 198: See remarks for claim 158.

Claim 199: See remarks for claim 147.

Claim 200: See remarks for claim 148.

Claim 201: See remarks for claim 149.

Claim 202: See remarks for claim 150.

Claim 203: See remarks for claim 158.

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Claim 204: See remarks for claim 149.

Claim 205: See remarks for claim 150.

Claim 206: The kiosk (FIG. 1) of Tagawa receives from a user a booking (FIG. 8A, block 456) which is an offer to purchase an airline ticket. The information in the offer includes the specified destination and departure locations (destination and origin data) on a specified date. The specification of airline identity can be skipped (blocks 452 and 454).

The kiosk then sends a query to airline inventory databases and returns flights that meet the user's specification. The user then books a flight having a specific price, which makes the price of the ticket user specified.

A notice in the form of a voucher is output to the user, which includes the flight number, departure time, departure date and airline identity.

Claim 207: The offer is received from a kiosk in an on-line connection to a network (FIGS. 2A or 2B).

Claim 208: The kiosk includes a telephone handset (34), which makes the kiosk an interactive voice response unit.

Claim 209: The offer is guaranteed for by a credit card (reference numeral 36 in FIG 2B; col. 15, line 62).

Claim 210: See remarks for claim 149.

Claim 211: See remarks for claim 150.

Claim 212: See remarks for claim 144.

Claim 213: See remarks for claim 145.

Claim 214: See remarks for claim 146.

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Claim 215: See remarks for claim 147.

Claim 216: See remarks for claim 148.

Claim 217: See remarks for claim 149.

Claim 218: See remarks for claim 150.

Claim 219: See remarks for claim 144.

Claim 220: See remarks for claim 145.

Claim 221: See remarks for claim 146.

Claim 222: See remarks for claim 147.

Claim 223: See remarks for claim 148.

Claim 224: See remarks for claim 149.

Claim 225: See remarks for claim 150.

Claim 226: See remarks for claim 158.

Claim 227: See remarks for claim 147.

Claim 228: See remarks for claim 148.

Claim 229: See remarks for claim 149.

Claim 230: See remarks for claim 150.

Claim 231: See remarks for claim 158.

Claim 232: See remarks for claim 147.

Claim 233: See remarks for claim 148.

Claim 234: See remarks for claim 149.

Claim 235: See remarks for claim 150.

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Claim 238: FIG. 2C illustrates a memory system (122) which contain data on flights available and their available fares. The fare is made available by providing the user a data input screen (456 in FIG. 8A) allowing the user to enter flight destination and timing data. The user does not need to reveal or identify an airline carrier (step 452) and this step can be skipped. Entry of the data at screen (456) creates a booking for airline carriage. The user can be out a confirmation number which can be further converted into a notice or voucher for the flight (FIG. 15A).

Claim 239: See remarks for claim 145.

Claim 240: See remarks for claim 146.

Claim 241: See remarks for claim 147.

Claim 242: See remarks for claim 148.

Claim 243: See remarks for claim 149.

Claim 244: See remarks for claim 150.

Claim 245: See remarks for claim 238.

Claim 246: See remarks for claim 145.

Claim 247: See remarks for claim 146.

Claim 248: See remarks for claim 147.

Claim 249: See remarks for claim 148.

Claim 250: See remarks for claim 149.

Claim 251: See remarks for claim 150.

Claim 252: See remarks for claim 238. Note that in screen (456), a user can further specify a date of travel.

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Claim 253: See remarks for claim 145.

Claim 254: See remarks for claim 146.

Claim 255: See remarks for claim 147.

Claim 256: See remarks for claim 148.

Claim 257: See remarks for claim 149.

Claim 258: See remarks for claim 150.

Claim 259: See remarks for claim 206.

Claim 260: See remarks for claim 149.

Claim 261: See remarks for claim 150.

Claim 262: See remarks for claim 207.

Claim 263: See remarks for claim 208.

Claim 264: See remarks for claim 209.

Claim 265: See remarks for claim 206.

Claim 266: See remarks for claim 149.

Claim 267: See remarks for claim 150.

Claim 268: See remarks for claim 207.

Claim 269: See remarks for claim 208.

Claim 270: See remarks for claim 209.

Claim 271: See remarks for claim 144.

Claim 272: See remarks for claim 145.

Claim 273: See remarks for claim 146.

Claim 274: See remarks for claim 147.

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Claim 275: See remarks for claim 148.

Claim 276: See remarks for claim 149.

Claim 277: See remarks for claim 150.

Claim 278: See remarks for claim 144.

Claim 279: See remarks for claim 145.

Claim 280: See remarks for claim 146.

Claim 281: See remarks for claim 147.

Claim 282: See remarks for claim 148.

Claim 283: See remarks for claim 149.

Claim 284: See remarks for claim 150.

Claim 285: See remarks for claim 158.

Claim 286: See remarks for claim 147.

Claim 287: See remarks for claim 148.

Claim 288: See remarks for claim 149.

Claim 289: See remarks for claim 150.

Remarks

Applicant's arguments have been considered.

Rejection of claims 236-237 under 35 USC 101: Applicant argues that the claimed invention is operable as an airline ticket, although applicant admits that it is not a conventional type of airline ticket (page 2, third paragraph of applicant's arguments) and should not be construed as a conventional airline ticket. Examiner agrees that the claimed invention is not a

conventional airline ticket. However, since applicant uses the conventional terminology of “airline ticket” in these claims, it is reasonable to expect that the claimed invention should be capable of functioning as a conventional airline ticket. If the invention is not capable of functioning as a conventional airline ticket, then the conventional term of “airline ticket” should not be used to describe it. Examiner maintains that since the preambles of these claims use the conventional terminology of “airline ticket”, the structure which follows in the body of the claim should be capable of carrying out the conventionally understood function, otherwise, the invention is incapable of operating in the manner claimed.

Rejection of claims 144-235 and 238-289 under 35 USC 102(e) as being anticipated by Tagawa (U.S. Patent 5,732,398): Applicant argues that in Tagawa, the airline carrier is not concealed from the user, and that this presents a distinction over Tagawa. The claims of record do not state that the airline information is concealed from the customer. Rather, they state that the information is not specified in a booking request. Examiner maintains that step (456) in FIG. 8a of Tagawa is a booking request in which the airline does not have to be specified in the request (the specification of airline is optional). Accordingly, Tagawa fully meets the claim limitations in the manner described herein.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell
Primary Examiner
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